

REMARKS

Reconsideration of the present application, as amended, is respectfully requested.

Claims 1-23 are pending in the Application, of which Claims 1, 12 and 20-23 are in independent form. Claim 2 has been amended above to insert a missing word. Claims 22 and 23 have been amended to delete an extra word, for internal consistency. These amendments do not narrow the scope of Claims 2, 22 and 23.

Turning to the Office Action, Fig. 1 was objected to in paragraph 1 of the Office Action because reference no. 150 was used for two different elements. A corrected Fig. 1 is included herewith which corrects this minor error. A corresponding change has also been made in the specification above. Withdrawal of the objection is respectfully requested.

Fig. 3 was also objected to in paragraph 2 of the Office Action because the "Time" node >930 AM having the leaf node POS 79.4 was not given a reference number, and it was further deemed that the node and leaf should properly be placed under the Station Call Sign 315 root node. As described above, the change suggested in the Office Action has been made in Replacement Fig. 3. Withdrawal of the objection is respectfully requested.

In paragraph 3 of the Office Action, the drawings were objected to as not showing the discrete and continuous mapping of scores to color as recited in Claims 6, 7, 14 and 15. Figs. 7A and 7B have been newly added above to depict such discrete and continuous mapping. The specification has been amended in the Brief Description of the Drawings portion to include reference to the new figures. In addition, page 11 of the specification has been amended at an appropriate point to refer to Figs. 7A and 7B. The discrete mapping example of Fig. 7A is identical to a portion of the table of page 5 of the specification and thus adds no new matter. In addition, Fig. 7B is a simple representation of scores from 0 to 100 being continuously mapped to colors from Dark Red to Dark Green. Because continuous mapping is well-known in the art and is also described in the specification (as described further below with respect to the rejection of Claims 7 and 15), Fig. 7B also adds no new matter.

Turning next to those §112 rejections as given in the Office Action, Claims 6 and 14 were rejected under 35 U.S.C. §112(¶1) in paragraph 7 of the Office Action because the specification purportedly fails to describe discretely mapping the score to a color. (Although the Office Action refers to Claim 5, it is

believed that this is a typographical error, and that Claim 6 was meant to be rejected.) It is respectfully noted that the Application contains abundant description of discrete mapping as recited in Claims 6 and 14. The table on page 5 of the Application is a clear example of discrete mapping of scores to colors. Thus, as shown, scores are divided into a number of ranges, and scores in each range are mapped to one particular color for that range. For example, scores that fall within the range 0-15 are all mapped to the color "Dark Red".

Discrete mapping as exemplified by the page 5 table is again described on page 10 (line 23) to page 11 (line 2) of the Application. Such discrete mapping is yet again referred to on page 11 (lines 19-32) of the Application, this time with an explicit reference to discrete mapping: "It is noted that for a color mapping implementation, a range of scores can be discretely mapped to a given color, as discussed above, or a score can be mapped to a color in a continuous fashion." (p. 11, lines 26-29)

Thus, the Application clearly provides ample enabling support for the discrete mapping as recited in Claims 6 and 14. Moreover, where, as here, there have been no specific technical reasons given by the Examiner to doubt the sufficiency or accuracy of the

detailed teaching underlying Claims 6 and 14 provided in the specification, MPEP 2164.04 directs that the specification is taken as providing enabling support. Thus, reconsideration and withdrawal of the rejections under 35 U.S.C. §112(¶1) is respectfully requested.

Claims 7 and 15 were rejected in paragraphs 9 and 10 of the Office Action under 35 U.S.C. §112(¶2) as purportedly being indefinite because of the use of the term "continuously". It is respectfully submitted that the claim language is sufficiently definite. Claims 7 and 15 both recite "said color scheme continuously maps said score to a color". Because the term "continuously" is used in the phrase "continuously maps", it clearly relates to the mathematical concept of continuity. Far from being indefinite, the term "continuity" is fundamental and well-known.

Consistent with this, continuous mapping is clearly described as an alternative to discrete mapping at page 11, lines 26-29, of the specification: "...a range of scores can be discretely mapped to a given color, as described above, or a score can be mapped to a color in a continuous fashion". Thus, in the discrete mapping of the table of page 5 of the specification referred to, there are

discontinuities. For example, the mapping has a discontinuity at a point between the score of 15 and 16, since the color abruptly changes from Dark Red to Red. Mapping "in a continuous fashion" as alternatively referred to in the specification would thus provide a smooth and non-abrupt change between colors for nearby scores. This is consistent with the formal mathematical notion of continuity, which is an intuitive concept formalized for mathematical purposes using a well-known concept of limit.

Because the phrase "continuous mapping" is clearly described in the specification and also relates to a fundamental and well-known concept in the art, reconsideration and withdrawal of the rejections of Claims 7 and 15 under 35 U.S.C. §112(¶2) is respectfully requested.

The title of the invention is objected to as not descriptive in paragraph 4 of the Office Action. The title is "Method and Apparatus For Displaying Program Recommendations With Indication Of Strength Of Contribution Of Significant Attributes". It is submitted that the title is clearly indicative of the invention as claimed and is at least as descriptive as the titles of the patents cited in the Office Action, for example. Because the title must also be as short and specific as possible (in compliance with 37

CFR 1.72), it is submitted that the current title is sufficient. Reconsideration and withdrawal of the requirement is respectfully requested.

Claims 22 and 23 were rejected in paragraph 5 of the Office Action under 35 U.S.C. §101 as directed toward non-statutory subject matter because they do not recite execution of the computer readable code.¹ However, the MPEP clearly recognizes that "a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory". MPEP 2106(IV.B.1(a)) Executing the computer code is not required. Thus, Claims 22 and 23 recite statutory subject matter. Reconsideration and withdrawal of the rejection is respectfully requested.

Turning to the substantive rejections given in the Office Action, the Examiner rejected Claims 1-7, 12-15 and 20-23 under 35 U.S.C. 102(e) as anticipated by U.S. Patent No. 6,163,316 to

¹ Paragraph 5 states that Applicant does not "teach" executing the computer readable code. It is believed that the Office Action meant to say that Claims 22 and 23 do not recite executing the computer readable code, since it is a Section 101 rejection. Apart from that, it is noted that the specification itself does describe executing computer code.

Killian.² (Office Action, ¶11) The Examiner rejected Claims 9, 10, 17 and 18 under 35 U.S.C. 103(a) as unpatentable over Killian in view of U.S. Patent No. 6,519,009 to Hanaya. (Office Action, ¶13) The Examiner rejected Claims 11 and 19 under 35 U.S.C. 103(a) as unpatentable over Killian in view of U.S. Patent No. 6,177,931 to Alexander. (Office Action, ¶14) The Examiner rejected Claims 8 and 16 under 35 U.S.C. 103(a) as unpatentable over Killian in view of U.S. Patent No. 6,518,986 to Mugura. (Office Action, ¶15) (Although the Office Action refers to Claim 9, it is believed that this is a typographical error, and that Claim 8 was meant to be rejected in paragraph 15.)

Focusing on independent Claim 1, Claim 1 recites "displaying said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score". The material cited from Killian in the Office Action with respect to Claim 1 at col. 11 only shows scoring indicators or scores being displayed with a preferred schedule. The "textual information" referred to in lines 26-28 of col. 11 of Killian

² It is believed that the Examiner also intended to quote the revised version of Section 102(e) on page 4 of the Office Action along with the exception where the pre-AIPA version applies. (It is noted that the patents applied in the Office Action do not appear to be based on a WIPO international application filed prior to November 29, 2000.)

clearly refers to standard textual information concerning the program included in the preferred schedule. This is further demonstrated, for example, at col. 12, lines 38-40, where Killian specifically disavows the user having any understanding or knowledge of the scoring algorithm, and at lines 58-59, where the scoring indicators are described as overlaying textual information "for" corresponding programs. Such scoring indicators and textual information of Killian do not provide any information to the user regarding the particular program attributes that contribute to the scoring. Accordingly, they are not "an indication of one or more program attributes contributing to said recommendation score", as recited in Claim 1.

Briefly considering a number of other citations to Killian in paragraph 11 of the Office Action, they also fail to teach the above-quoted recitation of Claim 1. For example, col. 9 (line 43) to col. 10 (line 39) of Killian (cited with respect to dependent Claim 2) describe creation of a viewer profile. Col. 3 (line 59) to col. 4 (line 7) of Killian (cited with respect to dependent Claim 4) merely describes possible program listing information that is included for programs on a remote server database. None of this other material cited in Killian teaches the Claim 1 recitation of

"displaying said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score" as recited in Claim 1.

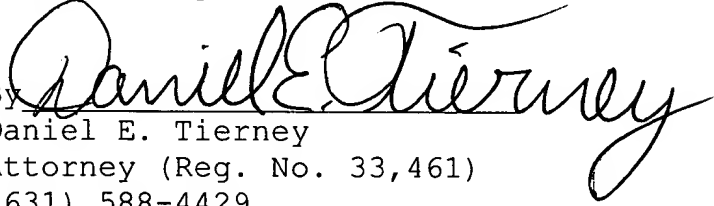
Thus, because Killian fails to teach at least the Claim 1 recitation of "displaying said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score", Killian fails to anticipate independent Claim 1. For at least analogous reason, Killian fails to anticipate independent Claims 12 and 20-23. Reconsideration and allowance of Claims 1, 12 and 20-23 is respectfully requested.

Without conceding the patentability per se of dependent Claims 2-11 and 13-19, it is submitted that they are allowable at least by virtue of their dependency on their respective independent claim. Allowance of dependent Claims 2-11 and 13-19 is respectfully requested.

Applicants have made a diligent and sincere effort to place this Application in condition for immediate allowance. In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Should the Examiner believe that a telephone conference would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,


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Attachments: Replacement drawing sheets (1 sheet with FIG 1 and
1 sheet with Fig. 3)
New drawing sheet (1 sheet with Figs. 7A and 7B)

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By Daniel E. Tierney
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